



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

October 8, 2003

Ref: 8ENF-W

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Campbell County Commissioners
c/o Craig Mader, Chair
500 S. Gillette Avenue
Gillette, WY 82716

Re: Notice of Safe Drinking Water
Act Enforcement Action against
High Plains Homeowners'
Association, PWS ID# 5601524

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the High Plains Homeowners' Association ("HOA"), Gillette, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The HOA is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.21(a), 141.21(b), 141.21(b)(5), 141.26(a)(1), 141.23(d), 141.201, 141.21(g)(1), 141.21(g)(2) and 141.31(b) for exceeding the maximum contaminant level for bacteriological quality; failure to monitor for bacteriological quality, radionuclides and nitrate; failure to submit a sample siting plan; failure to notify the public of the violations; and failure to report the violations to EPA.



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A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

October 8, 2003

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

High Plains Homeowners' Association
c/o John Simon, President
430 ½ Force Road
Gillette, Wyoming 82716

Re: Administrative Order
Docket No. **SDWA-08-2004-0002**
PWS ID # 5601524

Dear Mr. Simon:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the High Plains Homeowners' Association ("HOA") is a public water system as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(a)(2), 141.21(a), 141.21(b), 141.21(b)(5), 141.26(a)(1), 141.23(d), 141.201, 141.21(g)(1), 141.21(g)(2) and 141.31(b) for exceeding the maximum contaminant level for bacteriological quality; failure to monitor for bacteriological quality, radionuclides and nitrate; failure to submit a sample siting plan; failure to notify the public of the violations; and failure to report the violations to EPA.

Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the HOA to comply.

As a reminder, quarterly monitoring for volatile organic chemicals and synthetic organic chemicals is required for your system all four quarters in 2004.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet

notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the HOA is a small entity as defined by SBREFA.

Among other things, the Order calls for the HOA to provide a public notification of violations of the SDWA. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Kathelene Brainich of the EPA, whose telephone number is provided below.

Finally, we have also enclosed a pamphlet concerning the potential sources of funding to assist the HOA in coming into compliance with the NPDWRs.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Kathelene Brainich at the address on the letterhead and include the mailcode 8ENF-T, or call (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have an informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please feel free to ask your attorney to call Peggy Livingston, Enforcement Attorney, at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order
SBREFA information sheet
Funding Options pamphlet
Public Notices (2)

cc: Kodi Majors, High Plains HOA
Kevin Boyce, WWDC
Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
High Plains Homeowners')	
Association)	
Gillette, Wyoming)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. §300g-3(g))	Docket No. SDWA-08-2004-0002

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. High Plains Homeowners' Association ("Respondent") is an association and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the High Plains Homeowners' Association (the "System"), located in Campbell County, Wyoming, for the provision to the public of piped water for human consumption.
3. The High Plains Homeowners' Association Water System regularly serves an average of at least 25 year-round residents for at least sixty days out of the year and is



therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141, known as the National Primary Drinking Water Regulations (NPDWRs).
5. According to a Water System Basic Information questionnaire completed by the Secretary/Treasurer of the High Plains Homeowners' Association on October 12, 2002, the System is supplied by one well, serves an average of approximately 25 persons per day from September through April, serves an average of approximately 30 persons per day from May through August, and has 8 service connections. Therefore, by letter dated October 23, 2002, EPA notified the Respondent that the System meets the definition of a "public water system" and is subject to regulation under the Act and the NPDWRs.



FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21(a) requires community public water systems with a population of 1,000 or less to monitor their water at least monthly to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. For public water systems collecting fewer than 40 samples per month, 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria as prohibiting more than one sample collected during any month from being positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the public water system for the months of May, July, and September 2003 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

II.

1. 40 C.F.R. § 141.21 requires community public water systems with a population of 1,000 or less to monitor their water at least monthly to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the months of December 2002 and January, February and March 2003, in violation of 40 C.F.R. § 141.21(a).



III.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a sufficient set of repeat samples after total coliform positive routine samples in May, June, July and August 2003, in violation of 40 C.F.R. § 141.21(b).

IV.

1. 40 C.F.R. § 141.21(b) (5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples in any given month to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in June and August 2003 after a total coliform positive sample in the preceding months, in violation of 40 C.F.R. § 141.21(b) (5).

V.

1. 40 C.F.R. § 141.26(a) (1) requires community water systems to conduct initial monitoring of their water by taking four consecutive, quarterly samples to determine compliance with the MCL for radioactivity, as stated in 40 C.F.R. § 141.15.
2. Respondent monitored the System's water for radioactivity in June 2003 but failed to monitor during 4th quarter of



2002 and 1st quarter of 2003, in violation of 40 C.F.R. § 141.26(a)(1).

VI.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondent monitored the System's water for nitrate in June 2003 but failed to monitor for nitrate in 2002, in violation of 40 C.F.R. § 141.23(d).

VII.

1. 40 C.F.R. § 141.21(a) requires public water systems to collect total coliform samples at sites that are representative of water throughout the distribution system according to a written sample siting plan and provide this plan for EPA review.
2. Respondent has failed to submit a total coliform sample siting plan to EPA, in violation of 40 C.F.R. § 141.21(a).

VIII.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation (NPDWR) violations, including violations of the maximum contaminant level (MCL), maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and



testing procedures in 40 C.F.R. Part 141.

2. Respondent has not provided public notice of the noncompliance detailed in the preceding Section I of this Order, in violation of 40 C.F.R. § 141.201.

IX.

1. 40 C.F.R. § 141.21(g) (1) requires a public water system that has exceeded the MCL for total coliforms in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to EPA the total coliform MCL violations detailed in Section I, in violation of 40 C.F.R. § 141.21(g) (1).

X.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Sections II, III and IV, in violation of 40 C.F.R. § 141.21(g) (2).

XI.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary



Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.

2. Respondent failed to report to EPA the noncompliance detailed in Sections V through VIII of this Order, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the effective date of this Order, Respondent shall install and operate continuous disinfection to bring the system into consistent compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63.
2. Within 30 days of the effective date of this Order, Respondent shall monitor residual disinfectant concentrations in the water entering the distribution system daily and maintain a residual disinfectant concentration level of not less than 0.2 milligrams per liter (mg/L). Respondent shall report the results to EPA within 10 days after the end of each month.
3. If the System has a total coliform MCL violation within twelve months of the effective date of this Order, Respondent shall submit to EPA detailed plans for bringing Respondent's public water system into consistent compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63. This plan shall be submitted to EPA within 30 days of the



total coliform MCL violation. The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific milestone dates, a final installation date that shall be within 9 months from the total coliform MCL violation and shall be submitted to the Wyoming Department of Environmental Quality (DEQ) and EPA for approval. The plan must be approved by EPA and DEQ before construction/ modifications can commence.

4. If a plan is required as outlined in paragraph 3 above, the schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.
5. If a plan is required as outlined in paragraph 3 above, Respondent shall submit to EPA quarterly reports on the progress made toward bringing Respondent's system into consistent compliance with the coliform bacteria MCL at 40 C.F.R. § 141.63. The first quarterly report shall be submitted to EPA within 90 days of the total coliform MCL violation referenced in paragraph 3 of this Section.
6. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R. §



141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

7. Upon the effective date of this Order, Respondent shall comply with all total coliform repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R.

§ 141.31(a).

8. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has



one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

9. Upon the effective date of this Order, Respondent shall comply with the annual nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
10. No later than December 2003, and then again during the quarter January-March 2004, Respondent shall monitor the water for radioactivity, as required by 40 C.F.R. § 141.26(a). If Respondent did not monitor for radioactivity during the quarter July-September 2003, Respondent shall also monitor during the quarters of April-June and July-September 2004. Respondent shall report the results to EPA within the first 10 days following the month analytical results are received, as required by 40 C.F.R. § 141.31(a).
11. Within 30 days of the effective date of this Order, Respondent shall provide EPA with a written sample siting



plan for total coliform monitoring, as required by 40 C.F.R. § 141.21(a).

12. Within 30 days from the effective date of this Order, Respondent must provide public notice of the total coliform MCL violations specified under the Findings of Violation in this Order. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; AND (2) any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, such as publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others, posting in public places served by the system or on the Internet, or delivery to community organizations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of



completion of the public notice, as required by 40 C.F.R.
§ 141.31(d).

13. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondent learns of the violation.
14. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
15. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
16. Reporting requirements specified in this Order shall be provided by certified mail to:

Kathelene Brainich
U. S. EPA Region 8 (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1
_____ et seq., or the Safe Drinking Water Act, which remain in



full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation, under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil judicial penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the Act or its implementing regulations, in an action instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.



Issued this 8th day of October, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON OCTOBER 8, 2003.

